

From: Beth Ericksen
To: Susan White
Date: 05/04/2006 2:30:16 PM
Subject: Wasatch County

Susan-

I have completed drafts of both versions (I and II) of the letter to Wasatch County.

Version I: Require them to go to the board to enter into a self bond agreement, using the resolution as a tool that exempts them from submitting financials that qualifies them to enter into a board agreement. The board agreement will be the written contractual agreement that is the self bond

Version II: use the existing resolution coupled with a revision, or an additional resolution (which is required anyway to obtain signature authority) as the actual surety. In this case the surety is the promise to reclaim included and identified in a resolution the bolded statement in the letter indicating the dollar amount they will pay in the event they don't reclaim.

Both versions require:
A reclamation contract
a second resolution

Version I requires a self bonding agreement and the process of going to the board now and every time a bond change is made. Upon release, go to the board.

Version II allows the Division to use the resolution as the bond, and since this is a small mine at 5 acres, and **the risk is considered to be quite small**, then the resolution is the accepted promise to the State that reclamation will be performed. In this regard, they would be essentially acting as their own surety bond company so to speak. It is their promise to reclaim or pay using their own assets to pay in the event of forfeiture. My position on this one, is I believe the risk is minimal and **they are exempt from business license, Corp registration, and other requirements imposed on business entities**. In addition to that, with a resolution indicating they are good for their word, if that were to go to the board for forfeiture, **how embarrassing and socially unacceptable that would be**. Another point that I would like to make is **they are a subdivision of the State**, which makes them controlled by and liable to public officials, just as we are. Lastly, if we can use the resolution as the 'bond', **it is essentially the equivalent to a 'self bond' without the hassle. Essentially it is an uninsured secured financial promise, no different that the board contract.** So in conclusion, from a risk standpoint, this approach, I wouldn't think creates any additional risk, and from a 'good neighbor' (dare I say) standpoint, it looks really good. If the statute states "the division shall approve a method acceptable to the operator consistent with the requirements of this chapter" and the forms of surety shown are not limited to those id'd, then we should be able to do this.

In either case, say it were to go to court, there isn't a 'hard' surety anyway. I hope we can do version II as it will make any and all changes, release etc so much easier.

I will put copies of the letters in your box.

Beth